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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,365	04/11/2006	Hermann Theisinger	FRZ-102US	9716
23122	7590	10/05/2007		
RATNERPRESTIA			EXAMINER	
P O BOX 980			NEGRON, ISMAEL	
VALLEY FORGE, PA 19482-0980				
			ART UNIT	PAPER NUMBER
			2885	
			MAIL DATE	DELIVERY MODE
			10/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/561,365

Applicant(s)

THEISINGER, HERMANN

Examiner

Ismael Negron

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 1-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/19/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's preliminary amendment, filed concurrently with the instant application, has been entered. Claims 1-19 have been amended. No claim has been cancelled, or added. Claims 1-19 are still pending in this application, with claims 1 and 9 being independent.

### *Title*

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: ~~Bag and~~Illuminated Partition for ~~a~~and Bag  
Including such Partition.

### *Abstract*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it fails to concisely describe the subject matter of the invention, and includes phrases which can be implied. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **8**.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be

labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: it recites the limitation "*Said partition*" in line 1. There is insufficient antecedent basis for this limitation in the claim.

The cited lack of antecedent instances do not amount to indefiniteness under 35 U.S.C. 112, second paragraph, since it is readily apparent that the applicant's intention was to define "a partition". However, appropriate correction is required to place the claims in proper form for allowance.

7. Claims 2-19 are objected to for the same reasons as claim 1.

In addition, the applicant is strongly advised to review all the claims (emphasis added) for lack of antecedent basis problems, as it is noted that applicant's use of "the" and "said" is not in agreement with proper claim language and construction. The language of a claim must positively define an element before it is referred to as "said element"; new elements must not be introduced into the claimed structure as "said elements".

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 8 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. Claims 2 and 14 include the phrases "for example", "such as" and "or the like" which render the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
10. Claims 2 and 14 use the trademark VELCRO (registration number 0661700, to Velcro S.A. Corporation of Switzerland) to identify or describe a particular element. The claim is indefinite since the trademark or trade name cannot be used properly to identify any particular element, material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a trademark or trade name in the claim to identify or describe an element, material or product would not only renders the claim indefinite, but would also constitute an improper use of the trademark or trade name. *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982).
11. Claim 8 includes examples (i.e. an EL module, specifically an EL mat), which render the claim indefinite because it is unclear whether the examples are necessarily part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-4, 7-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by GRANNEMAN et al. (U.S. Pat. 5,067,063).
13. GRANNEMAN et al. discloses a bag having:
- **lighting means for illuminating the interior of the bag (as recited in claims 1 and 9), as seen in Figure 12;**
  - **the lighting means forming a partition (as recited in claims 1 and 9), as seen in Figure 2;**
  - **the lighting means including at least one flat light source (as recited in claims 1 and 9) Figure 1, reference number 22;**
  - **a receiving part for the at least one flat light source (as recited in claims 1 and 9), as seen in Figure 4;**
  - **the partition being transparent on at least one side at least in the area of the at least one said light source (as recited in claims 1 and 9), column 3, lines 45-50;**

Art Unit: 2885

- **the partition being removable and capable of being connected with a bag by means of prior-art fastening means (as recited in claim 2 and 14), column 3, lines 12-15;**
- **the partition being rigidly connected with a bag (as recited in claims 3 and 12), as seen in Figure 4;**
- **the light source located in the partition being capable of being switched on and/or off by means of a switch (as recited in claims 4 and 16), column 4, lines 5-9;**
- **the partition being transparent on both sides at least in the area of the said light source (as recited in claims 7 and 19), column 3, lines 45-50;**
- **flat light source being an EL module, especially an EL mat (as recited in claims 8 and 10), Figure 1, reference number 22;**
- **the flat light source being arranged essentially parallel to the broader outer surfaces of the bag (as recited in Claim 10), as seen in Figure 1; and**
- **the flat light source being removably arranged in the bag (as recited in Claim 13), column 3, lines 12-15.**



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over GRANNEMAN et al. (U.S. Pat. 5,067,063).

15. GRANNEMAN et al. discloses all the limitations of the claims (as detailed in previous section 13), except:

- at least one battery compartment located on the top side of the partition (as recited in claims 5 and 17); or
- the power being automatically interrupted after a preset time beginning from the switching ON of the light source (as recited in claims 6 and 18).

16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the battery compartment on a top side of the partition of the patented structure of GRANNEMAN et al., since it has been held that rearranging parts of a prior art structure involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). In this case, it is noted that the instant description is silent as to the placement of the battery compartment solving any problem or being for a particular reason. Locating the battery compartment on the top of the partition would

Art Unit: 2885

have flown naturally to one of ordinary skill in the art to be able to easily change such batteries.

17. Regarding turning the light source automatically OFF after a predetermined period of time, the examiner takes Official Notice that the use of timing switches is known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include such timing switches in the patented structure of GRANNEMAN et al. One would have been motivated to increase battery life by automatically switching the light source OFF after a predetermined period of time since activation of such light source.

***Relevant Prior Art***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Blume et al.** (U.S. Pat. 4,926,296), **Chien** (U.S. Pat. 5,479,325), **Tabanera** (U.S. Pat. 5,676,451), **Stephen** (U.S. Pat. App. Pub. 2002/0030989), **Egli** (U.S. Pat. 2002/0093814), **Knoerzer et al.** (U.S. Pat. 6,637,906), **Worthington** (U.S. Pat. App. Pub. 2005/0013128) and **Hsu** (U.S. Pat. 6,874,904) disclose EL illumination devices, some for illuminating interior spaces of purses.

***Conclusion***

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee, can be reached on (571) 272-7044. The facsimile machine number for the Art Group is (571) 273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.

/Ismael Negron/  
Patent Examiner  
AU 2885